

**BEFORE THE  
BOARD OF PHARMACY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. 3150

**ROBERTO FLORES**  
411 North Alisos Street  
Santa Barbara, CA 93103

Pharmacy Technician Registration No. TCH  
61788

Respondent.

**DECISION AND ORDER**

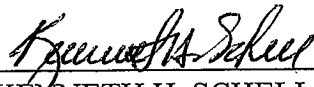
The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Pharmacy, Department of Consumer Affairs, as its Decision in this matter.

This decision shall become effective on January 9, 2009.

It is so ORDERED on December 10, 2008.

BOARD OF PHARMACY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

By

  
\_\_\_\_\_  
KENNETH H. SCHELL  
Board President

1 EDMUND G. BROWN JR., Attorney General  
of the State of California  
2 KAREN B. CHAPPELLE  
Supervising Deputy Attorney General  
3 GREGORY J. SALUTE, State Bar No. 164015  
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4 300 So. Spring Street, Suite 1702  
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6

7 Attorneys for Complainant

8 **BEFORE THE**  
9 **BOARD OF PHARMACY**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

13 ROBERTO FLORES  
411 North Alisos Street  
14 Santa Barbara, CA 93103  
Pharmacy Technician Registration No. TCH  
61788

15 Respondent.

Case No. 3150

OAH No. [Unassigned]

**STIPULATED SETTLEMENT AND  
DISCIPLINARY ORDER**

16  
17 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the  
18 above-entitled proceedings that the following matters are true:

19 **PARTIES**

20 1. Virginia Herold (Complainant) is the Executive Officer of the Board of  
21 Pharmacy. She brought this action solely in her official capacity and is represented in this matter  
22 by Edmund G. Brown Jr., Attorney General of the State of California, by Gregory J. Salute,  
23 Supervising Deputy Attorney General.

24 2. Respondent Roberto Flores (Respondent) is representing himself in this  
25 proceeding and has chosen not to exercise his right to be represented by counsel.

26 3. On or about April 6, 2005, the Board of Pharmacy issued Pharmacy  
27 Technician Registration No. TCH 61788 to Roberto Flores. The Pharmacy Technician  
28 Registration was in full force and effect at all times relevant to the charges brought in Accusation

1 No. 3150 and will expire on July 31, 2008, unless renewed.

2 JURISDICTION

3 4. Accusation No. 3150 was filed before the Board of Pharmacy (Board),  
4 Department of Consumer Affairs, and is currently pending against Respondent. The Accusation  
5 and all other statutorily required documents were properly served on Respondent on September  
6 5, 2008. Respondent timely filed his Notice of Defense contesting the Accusation. A copy of  
7 Accusation No. 3150 is attached as exhibit A and incorporated herein by reference.

8 ADVISEMENT AND WAIVERS

9 5. Respondent has carefully read, and understands the charges and allegations  
10 in Accusation No. 3150. Respondent has also carefully read, and understands the effects of this  
11 Stipulated Settlement and Disciplinary Order.

12 6. Respondent is fully aware of his legal rights in this matter, including the  
13 right to a hearing on the charges and allegations in the Accusation; the right to be represented by  
14 counsel at his own expense; the right to confront and cross-examine the witnesses against him;  
15 the right to present evidence and to testify on his own behalf; the right to the issuance of  
16 subpoenas to compel the attendance of witnesses and the production of documents; the right to  
17 reconsideration and court review of an adverse decision; and all other rights accorded by the  
18 California Administrative Procedure Act and other applicable laws.

19 7. Respondent voluntarily, knowingly, and intelligently waives and gives up  
20 each and every right set forth above.

21 CULPABILITY

22 8. Respondent admits the truth of each and every charge and allegation in  
23 Accusation No. 3150.

24 9. Respondent agrees that his Pharmacy Technician Registration is subject to  
25 discipline and he agrees to be bound by the Board of Pharmacy (Board) 's imposition of  
26 discipline as set forth in the Disciplinary Order below.

27 CONTINGENCY

28 10. This stipulation shall be subject to approval by the Board of Pharmacy.

1 Respondent understands and agrees that counsel for Complainant and the staff of the Board of  
2 Pharmacy may communicate directly with the Board regarding this stipulation and settlement,  
3 without notice to or participation by Respondent. By signing the stipulation, Respondent  
4 understands and agrees that he may not withdraw his agreement or seek to rescind the stipulation  
5 prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation  
6 as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force  
7 or effect, except for this paragraph, it shall be inadmissible in any legal action between the  
8 parties, and the Board shall not be disqualified from further action by having considered this  
9 matter.

10 11. The parties understand and agree that facsimile copies of this Stipulated  
11 Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same  
12 force and effect as the originals.

13 12. In consideration of the foregoing admissions and stipulations, the parties  
14 agree that the Board may, without further notice or formal proceeding, issue and enter the  
15 following Disciplinary Order:

16 **DISCIPLINARY ORDER**

17 IT IS HEREBY ORDERED that Pharmacy Technician Registration No. TCH  
18 61788 issued to Respondent Roberto Flores is revoked. IT IS HEREBY FURTHER ORDERED  
19 that collection of the Board's investigation and prosecution costs in the amount of \$3916.50 is  
20 hereby waived unless and until Respondent's pharmacy technician license or any other license  
21 granted to Respondent by the Board is reissued or reinstated in which case full payment of costs  
22 must be made to the Board by Respondent prior to licensure.

23 IT IS ALSO ORDERED THAT pursuant to Business and Professions Code  
24 section 4309(a)(1), Respondent may reapply for reinstatement no sooner than three (3) years  
25 from the effective date of this Decision and Order.

26 **ACCEPTANCE**

27 I have carefully read the Stipulated Settlement and Disciplinary Order. I  
28 understand the stipulation and the effect it will have on my Pharmacy Technician Registration.

1 I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and  
2 intelligently, and agree to be bound by the Decision and Order of the Board of Pharmacy.

3 DATED: 10-12-08

4  
5   
6 ROBERTO FLORES (Respondent)  
7 Respondent


8  
9 ENDORSEMENT

10 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully  
11 submitted for consideration by the Board of Pharmacy of the Department of Consumer Affairs.

12  
13 DATED: 10-20-08

14 EDMUND G. BROWN JR., Attorney General  
15 of the State of California

16 KAREN B. CHAPPELLE  
17 Supervising Deputy Attorney General

18   
19 GREGORY N. SALUTE  
20 Supervising Deputy Attorney General  
21 Attorneys for Complainant

**Exhibit A**

**Accusation No. 3150**

1 EDMUND G. BROWN JR., Attorney General  
of the State of California  
2 KAREN B. CHAPPELLE  
Supervising Deputy Attorney General  
3 WILLIAM R. TAYLOR, State Bar No. 222455  
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6 Attorneys for Complainant

7  
8 **BEFORE THE**  
**BOARD OF PHARMACY**  
9 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

10 In the Matter of the Accusation Against:

Case No. 3150

11 ROBERTO FLORES  
411 North Alisos Street  
12 Santa Barbara, CA 93103

**ACCUSATION**

13 Pharmacy Technician Registration No. TCH  
61788

14 Respondent.  
15

16  
17 Complainant alleges:

18 PARTIES

19 1. Virginia K. Herold (Complainant) brings this Accusation solely in her  
20 official capacity as the Executive Officer of the Board of Pharmacy.

21 2. On or about April 6, 2005, the Board of Pharmacy issued Pharmacy  
22 Technician Registration Number TCH 61788 to Roberto Flores (Respondent). The Pharmacy  
23 Technician Registration was in full force and effect at all times relevant to the charges brought  
24 herein and will expire on July 31, 2008, unless renewed.

25 JURISDICTION

26 3. This Accusation is brought before the Board of Pharmacy, under the  
27 authority of the following laws. All section references are to the Business and Professions Code  
28 unless otherwise indicated.

1                   4.       Section 4060 of the Code states:

2                   "No person shall possess any controlled substance, except that furnished to a  
3 person upon the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or  
4 naturopathic doctor pursuant to Section 3640.7, or furnished pursuant to a drug order issued by a  
5 certified nurse-midwife pursuant to Section 2746.51, a nurse practitioner pursuant to Section  
6 2836.1, or a physician assistant pursuant to Section 3502.1, or naturopathic doctor pursuant to  
7 Section 3640.5, or a pharmacist pursuant to either subparagraph (D) of paragraph (4) of, or clause  
8 (iv) of subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052. This section shall  
9 not apply to the possession of any controlled substance by a manufacturer, wholesaler, pharmacy,  
10 pharmacist, physician, podiatrist, dentist, optometrist, veterinarian, naturopathic doctor, certified  
11 nurse-midwife, nurse practitioner, or physician assistant, when in stock in containers correctly  
12 labeled with the name and address of the supplier or producer.

13                   "Nothing in this section authorizes a certified nurse-midwife, a nurse practitioner,  
14 a physician assistant, or a naturopathic doctor, to order his or her own stock of dangerous drugs  
15 and devices."

16                   5.       Section 4301 of the Code states:

17                   "The board shall take action against any holder of a license who is guilty of  
18 unprofessional conduct or whose license has been procured by fraud or misrepresentation or  
19 issued by mistake. Unprofessional conduct shall include, but is not limited to, any of the  
20 following:

21                   . . .

22                   "(f) The commission of any act involving moral turpitude, dishonesty, fraud,  
23 deceit, or corruption, whether the act is committed in the course of relations as a licensee or  
24 otherwise, and whether the act is a felony or misdemeanor or not.

25                   . . .

26                   "(h) The administering to oneself, of any controlled substance, or the use of any  
27 dangerous drug or of alcoholic beverages to the extent or in a manner as to be dangerous or  
28 injurious to oneself, to a person holding a license under this chapter, or to any other person or to



1 the public, or to the extent that the use impairs the ability of the person to conduct with safety to  
2 the public the practice authorized by the license.

3 " (j) The violation of any of the statutes of this state, of any other state, or of the  
4 United States regulating controlled substances and dangerous drugs.

5 . . . ."

6 6. Section 4327 of the Code states:

7 "Any person who, while on duty, sells, dispenses, or compounds any drug while  
8 under the influence of any dangerous drug or alcoholic beverages shall be guilty of a  
9 misdemeanor."

10 7. Section 118, subdivision (b), of the Code provides that the expiration of a  
11 license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the  
12 period within which the license may be renewed, restored, reissued or reinstated.

### 13 Cost Recovery

14 8. Section 125.3 of the Code provides, in pertinent part, that the Board may  
15 request the administrative law judge to direct a licentiate found to have committed a violation or  
16 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation  
17 and enforcement of the case.

### 18 9. DEFINITIONS:

19 A. "Soma," is the brand name for the generic Carisoprodol, and is classified  
20 as a "dangerous drug" pursuant to Business and Professions Code section 4022.

21 B. "Vicodin," is the brand name for Hydrocodone with Acetaminophen. It is  
22 classified as a Schedule III controlled substance pursuant to Health and Safety Code Section  
23 11056, subdivision (e)(5), and is categorized as a "dangerous drug" pursuant to Business and  
24 Professions Code section 4022.

### 25 FIRST CAUSE FOR DISCIPLINE

26 (Unprofessional Conduct - Theft of Dangerous Drugs)

27 10. Respondent is subject to disciplinary action under section 4301,  
28 subdivision (f), in that on or about January 3, 2006, Respondent admitted to an officer with the

1 Santa Barbara Police Department to having diverted 25 plastic packages of the generic form of  
2 the drug Soma (350 mg) from his employer Santa Barbara Cottage Hospital Pharmacy. The facts  
3 and circumstances are as follows:

4           a.       On or about January 3, 2006, officers with the Santa Barbara Police  
5 Department found Respondent's vehicle illegally parked curbside near Santa Barbara Cottage  
6 Hospital, and upon a DMV records search discovered that the vehicle had several other  
7 outstanding parking tickets warranting impoundment. Pursuant to a lawful inventory search of  
8 the vehicle, officers seized 25 plastic packages for the generic form of the drug Soma (350 mg),  
9 44 Vicodin tablets without a prescription, and less than one ounce of marijuana from the interior  
10 of the vehicle. Upon officer questioning, Respondent admitted that he had diverted the Soma  
11 from his employer Santa Barbara Cottage Hospital Pharmacy, where he worked as a pharmacy  
12 technician.

#### 13                               SECOND CAUSE FOR DISCIPLINE

14           (Unprofessional Conduct - Possession of a Dangerous Drug and Controlled Substances)

15           11.       Respondent is subject to disciplinary action under sections 4060 and 4301,  
16 subdivision (j), in that on or about January 3, 2006, during a lawful search of Respondent's  
17 vehicle, officers with the Santa Barbara Police Department found that Respondent was in  
18 possession of 25 plastic packages for the generic form of the drug Soma, 44 Vicodin tablets, and  
19 less than one ounce of marijuana. Complainant refers to and by this reference incorporates the  
20 allegations set forth in paragraph 10, subparagraph (a) above, as though set forth fully herein.

#### 21                               THIRD CAUSE FOR DISCIPLINE

22           (Dispensing While Under the Influence of Drugs)

23           12.       Respondent is subject to disciplinary action under sections 4327 and 4301,  
24 subdivision (j), in that between on or about October 2004 through March 2006, Respondent  
25 worked as a pharmacy technician at Santa Barbara Cottage Hospital, while under the influence of  
26 controlled substances and dangerous drugs. The facts and circumstances are as follows:

27           a.       On or about February 22, 2006, Respondent admitted to officials with  
28 Santa Barbara Cottage Hospital that while working as a pharmacy technician at the hospital

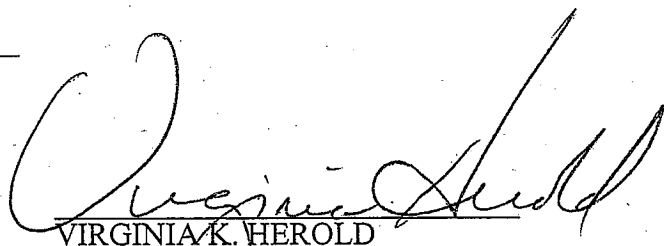
1 pharmacy from October 2004 through March 2006, Respondent performed his duties while under  
2 the influence of dangerous drugs and controlled substances.

3 PRAYER

4 WHEREFORE, Complainant requests that a hearing be held on the matters herein  
5 alleged, and that following the hearing, the Board of Pharmacy issue a decision:

- 6 1. Revoking or suspending Pharmacy Technician Registration Number TCH  
7 61788, issued to Roberto Flores Roberto Flores;  
8 2. Ordering Roberto Flores to pay the Pharmacy Board the reasonable costs  
9 of the investigation and enforcement of this case, pursuant to Business and Professions Code  
10 section 125.3;  
11 3. Taking such other and further action as deemed necessary and proper.

12 DATED: 8/14/08



VIRGINIA K. HEROLD  
Executive Officer  
Board of Pharmacy  
State of California  
Complainant

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